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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: DEPUTY

UNITED STATES OF AMERICA,	Magistrate Docket No.
Plaintiff,	
v.	**COMPLAINT FOR VIOLATION OF:**
	Title 8, U.S.C., Section 1326
Eddiberto ANTES-Ortiz,	Deported Alien Found in the
Aka: Jose BURGENO-Garcia	United States
Defendant	

The undersigned complainant, being duly sworn, states:

On or about **January 26, 2008** within the Southern District of California, defendant, **Eddiberto ANTES-Ortiz Aka: Jose BURGENO-Garcia,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **28th** DAY OF **JANUARY 2008.**

Barbara L. Major
UNITED STATES MAGISTRATE JUDGE

SLT

CONTINUATION OF COMPLAINT:
Eddiberto ANTES-Ortiz
Aka: Jose BURGENO-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On January 26, 2008, Border Patrol Agent W. C. Stephens was conducting patrol duties in an area known as the "Pump Station". The "Pump Station" is located five miles west and 200 yards north of the San Ysidro, California Port of Entry. The Pump Station is in the Imperial Beach Border Patrol Station's area of responsibility and is notorious for the presence of undocumented aliens and smugglers attempting to further their illegal entry into the United States.

At approximately 6:10 a.m., Agent Stephens observed a group of six individuals, via infrared thermal camera, heading north towards his position. Agent Stephens was concealed in some brush when he observed the individuals whom were already north of the United States/Mexico International boundary fence. At approximately 6:15 a.m., the group of individuals approached Agent Stephens's position. Agent Stephens identified himself as a United States Border Patrol Agent in both the English and Spanish Languages. Agent Stephens then questioned each of the individuals as to their citizenship. All of the individuals, including one later identified as the defendant **Eddiberto ANTES-Ortiz Aka: Jose BURGENO-Garcia,** stated that they were citizens and nationals of Mexico. Agent Stephens then asked each of the individuals if they were in possession of any immigration documents allowing them to enter or remain in the United States. All of the individuals, including the defendant, stated that they were not and admitted to being illegally present in the United States. The defendant along with the other individuals were placed under arrest and transported to the Imperial Beach Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **February 2, 1994** through **Calexico, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.

SLF

CONTINUATION OF COMPLAINT:
Eddiberto ANTES-Ortiz
Aka: Jose BURGENO-Garcia

Executed on January 27, 2008 at 2:00 p.m.

Carlos R. Chavez
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **January 26, 2008**, in violation of Title **8**, United States Code, Section **1326**.

Peter C. Lewis
United States Magistrate Judge

1-27-08 @ 5:21 pm
Date/Time